

REMARKS/ARGUMENTS

Favorable reconsideration of this application, as presently amended and in light of the following discussion, is respectfully requested.

Claims 1-4, 6-14, 16-19, 21-23, 25, and 26 are pending in this case. Claims 1-4, 9, 16-19, 21-23, and 26 are amended by the present amendment with support in the originally filed disclosure at least at Fig. 5, the corresponding description, paragraphs [0071] and [0111] to [0116]. Thus, no new matter is added.

In the outstanding Office Action, Claims 2, 9-11, and 17 were objected to, and Claims 1-4, 6-14, 16-19, 21-23, 25, and 26 were rejected under 35 U.S.C. § 103(a) as unpatentable over Heard, et al. (U.S. Pub. No. 2006/0236363, herein “Heard”) in view of Dal Canto, et al. (U.S. Pub. No. 2003/0217166, herein “Dal Canto”), further in view of Patel (U.S. Patent No. 6,591,364).

In light of the amendments to Claims 2, 9, and 17, clarifying that N is an integer value, Applicants respectfully request that the objections to Claims 2, 9-11, and 17 be withdrawn.

Applicants respectfully traverse the rejection of the pending claims.

Independent claims 3, 4, 6, 13, 14, 16, 18, 19, 21-23, 25, and 26 are not discussed individually but are asserted as rejected for similar reasons as Claim 1. Thus, the response herein cannot address assertions directed to each claim element.

Applicants note that each of the independent claims recites different elements from the other claims. Based on the requirement, at MPEP § 2142, that an asserted combination of references must teach or suggest every element of a claim to establish a *prima facie* case of obviousness, Applicants encourage consideration and examination of each claim in light of the discussion below.

Applicants note that the claimed invention is directed to judging whether a receiver of content (receiving apparatus) is in the same LAN or is connected via WAN, because content may be permitted to be copied and transmitted within a home but may be regarded as improperly transmitted via, for example, a Virtual Private Network (VPN) which might appear as a LAN. In the judgment, the length of time for a response from the receiving apparatus following transmission from a transmitting apparatus (content provider) is critical to distinguishing a LAN from a VPN, for example. Thus, as discussed at paragraph [0112] of the published specification, for example, the response at the receiving apparatus must be ready for transmission in response to a received transmission from the transmitting apparatus so that the judgment based on response time is not skewed by the time it takes to generate the response at the receiving apparatus.

Accordingly, as recited by the amended claims, the receiving apparatus generates the response prior to receiving a command from the transmitting apparatus during the measurement period. At least this feature and the underlying recognition of the importance of capturing a true response time are deficient in each of the cited references.

Heard is directed to on-device security on a mobile device when the mobile device is used to access corporate data. Paragraphs [0073] and [0074] of Heard describe distributing a new or modified security policy to a mobile device. The authentication between the mobile device and the gatekeeper involves a mutual challenge-response.

However, the response in each challenge-response procedure is computed after reception of the challenge. Thus, Heard fails to teach or suggest that the receiving apparatus generates authentication data for a response prior to reception of the challenge that initiates the process.

This deficiency of Heard applies to all the independent Claims 1, 3, 4, 6, 13, 14, 16, 18, 19, 21-23, 25, and 26. For example, amended Claim 1 recites “the response message

including authentication data, which is generated in the data receiving apparatus prior to the data receiving apparatus receiving the response request command” and Claim 6 recites “an authentication data generation unit configured to generate said authentication data based on shared data with the data transmitting apparatus by...a predetermined process before said response request command is received.” Further, the above-noted deficiency with regard to all the independent claims is not cured by Dal Canto and/or Patel, as discussed below.

Additionally, with regard to a combination with any other reference, Heard does not evidence any need for a response to be ready before presentation of the challenge because the time for the challenge-response process is not discussed in Heard as being significant. Thus, Heard is also deficient, as conceded by the outstanding Office Action, regarding the measurement and judgment as defined by Claims 1, 3, 4, 16, 18, 19, 25, and 26.

Dal Canto is asserted to cure the deficiencies of Heard with regard to measurement of response time and judgment based on the response time.

Dal Canto is directed to providing a service provisioning system architecture. As discussed at paragraph [0059] of Dal Canto, when a user requests digital service, the authentication service module 210 determines the geographic and/or network location of the requesting client device. As stated later in the same paragraph, that location is included in the client profile information rather than being computed or otherwise determined. That same paragraph of Dal Canto also states that the size of the direct service area depends on the round-trip delay or response time which should preferably be below a user’s threshold of perception.

That is, based on the location of the requesting client device 400, which is in the client profile information, and based on a desired maximum response time to the known location of the serving service center 300, the authentication service module 210 “determines that the

requesting client device 400 is within the direct service area of the serving service center 300.”

However, nothing in Dal Canto teaches or suggests that the response time must be **measured** to make a judgment regarding subsequent data transmission. Dal Canto involves two known locations such that response time can easily be computed to determine if it is within the desired maximum.

On the other hand, as stated above, the claimed invention is directed to determining the location of the receiving apparatus and, specifically, if the receiving apparatus is co-located or communicating via, for example, a VPN with the transmitting apparatus.

The above-discussed deficiency of Dal Canto applies to Claims 1, 3, 4, 16, 18, 19, 25, and 26, and is not cured by Heard, as discussed above, and/or Patel, as discussed below.

Also, as mentioned above in the discussion of Heard, Dal Canto fails to cure the above-discussed deficiencies of Heard for all the independent claims with regard to generation of a response, based on shared data, **prior to** a receiving apparatus receiving a command from a transmitting apparatus, because Dal Canto is silent regarding at least shared data or authentication based on shared data.

Patel is asserted to cure the deficiencies of Heard and Dal Canto with regard to expected value generation. However, Patel does not cure the deficiencies of Heard and Del Canto with regard to a receiving apparatus generating authentication data **prior to** receiving a command from a transmitting apparatus for a measurement of response time or with regard to measure a response time to judge the propriety of a subsequent transmission to a receiving apparatus.

Patel is directed to a method for establishing a session key in a wireless system. As described at columns 3 and 4 of Patel, upon receiving a challenge from the visiting location register VLR 15, a mobile 20 performs a process to generate a response to the challenge.

Thus, Patel, describes a response being generated after reception of the challenge and, further, fails to describe measuring response time.

Because, as discussed above, Heard, Dal Canto, and Patel, even in combination, fail to teach or suggest every element of at least independent Claims 1, 3, 4, 6, 13, 14, 16, 18, 19, 21-23, 25, and 26, Applicants respectfully request that the rejection under 35 U.S.C. § 103(a) of Claim 1, Claim 2, which depends therefrom, Claims 3 and 4, Claim 6, Claims 7-12, which depend therefrom, Claims 13 and 14, Claim 16, Claim 17, which depends therefrom, Claims 18, 19, 21-23, 25, and 26 be withdrawn.

Accordingly, the outstanding rejections are traversed and the pending claims are believed to be in condition for formal allowance. An early and favorable action to that effect is, therefore, respectfully requested.

Respectfully submitted,

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